

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19884
[REDACTED],	)	
	)	DECISION
Taxpayer.	)	
_____	)	

On October 12, 2006, the staff of the Managed Audit Program of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer) and [Redacted] proposing sales and use tax, and interest for the period of June 1, 2005, through June 30, 2005, in the total amount of \$2,579. The Commission has determined that [Redacted] is not liable for any sales or use tax in this case.

On December 6, 2006, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayer on March 22, 2007.

The only issue in this case is the imposition of use tax on the purchase of a 2000 Freightliner truck. At the time he purchased it, the taxpayer claimed an exemption under Idaho Code § 63-3622R, also known as the I.R.P. exemption.

Use tax is imposed under Idaho Code § 63-3621, which taxes the storage, use, or other consumption of tangible personal property in Idaho, unless an exemption applies. The use tax rate is the same as the sales tax rate. Any liability for use tax is extinguished if the purchaser pays sales tax to the seller at the time of purchase. In other words, use tax is only imposed on purchases for which the seller did not charge sales tax.

The exemption that the taxpayer is claiming, Idaho Code § 63-3622R, states, in relevant part:

**63-3622R. MOTOR VEHICLES, USED  
MANUFACTURED HOMES, VESSELS, ALL-TERRAIN**

**VEHICLES, TRAILERS, OFF-ROAD MOTORCYCLES, SNOWMOBILES AND GLIDER KITS.** There are exempted from the taxes imposed by this chapter:...

(c) Sale or lease of motor vehicles with a maximum gross registered weight over twenty-six thousand(26,000) pounds, which shall be immediately registered under the international registration plan or similar proportional or pro rata registration system, whether or not base plated in Idaho, and the sale or lease of trailers which are part of a fleet of vehicles registered under such proportional or pro rata registration system when such vehicles and trailers are substantially used in interstate commerce. *If such a motor vehicle or trailer is not substantially used in interstate commerce during any annual registration period under the international registration plan, it shall be deemed used in Idaho and subject to the use tax under section 63-3621, Idaho Code.* For the purpose of this subsection, "substantially used in interstate commerce" means that the vehicles or trailers will be part of a fleet with a minimum of ten percent (10%) of the miles operated by the fleet accrued outside of Idaho in any annual registration period under the international registration plan. (Emphasis added.)

The taxpayer admits that he did not drive the vehicle outside of Idaho during the registration period ending on June 30, 2005.

The taxpayer stated that when he purchased the truck [Redacted] the seller told him that he would not have to pay tax if he used the truck in interstate commerce for five years. The taxpayer also stated that he called the Commission's Taxpayer Services section and was informed that if he operated the vehicle out of state 20 percent of the time for five years he would not be required to pay sales or use tax after that time. He did not remember the name of the employee or the date of the phone call.

Idaho Sales Tax Rule 101 (IDAPA 35.01.02.101) was recently amended to add the following subsection:

**07. Failure To Meet Interstate Mileage Requirement.** Use tax will become due at the end of any registration period for which the out of state mileage is less than ten percent (10%) of the total fleet mileage. Tax will be due on the value of the trucks and trailers on the twentieth day of the month following the end of the registration period.

Although this rule was not in effect at the time of the audit, the Commission has always understood this to be a correct interpretation of the statute. To interpret it otherwise would contradict the requirement to pay use tax that is expressly stated in the statute.

WHEREFORE, the Notice of Deficiency Determination dated October 12, 2006, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest:

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$2,274	\$258	\$2,532

Interest is calculated through May 18, 2007, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]  
[REDACTED]

Receipt No.

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